

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and the Chapter 7 Estate of Bernard L. Madoff,

Plaintiff,

v.

BANCO ITAÚ EUROPA LUXEMBOURG
S.A., and BANCO ITAÚ EUROPA
INTERNATIONAL,

Defendants.

Adv. Pro. No. 12-01019 (CGM)

STIPULATION AND ORDER TO WAIVE ARGUMENT

Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC, under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–III, and the chapter 7 estate of Bernard L. Madoff, individually, and defendants Itaú BBA International (Cayman) Ltd., f/k/a Itaú Europa Luxembourg, S.A., f/k/a Banco Itaú Europa Luxembourg S.A. and Banco Itaú Europa International (the “Defendants, and together with the Trustee, the “Parties”), by and through their respective undersigned counsel,

hereby stipulate and agree as follows:

WHEREAS, on March 14, 2022, Defendants filed a motion to dismiss the Trustee's complaint [ECF No. 117], with a supporting memorandum of law [ECF No. 118] and the Declaration of Jeffrey Resetarits [ECF No. 119] (the "Motion"); on May 13, 2022, the Trustee filed an Opposition to Defendants' Motion [ECF No. 120] and the supporting Declaration of Maximillian S. Shifrin [ECF No. 121] (the "Opposition"); and on June 27, 2022, Defendants filed a reply in further support of their Motion [ECF No. 124] and the supporting Declaration of Randall Martin [ECF No. 125] (the "Reply," and together with the Motion and Opposition, the "Briefing");

WHEREAS, the Court scheduled a hearing to consider the Motion on October 19, 2022, at 10:00 am; and

WHEREAS, the Parties have conferred and agree to rest on their papers and waive oral argument on the Motion.

IT IS HEREBY STIPULATED AND AGREED, by the Parties, and **SO ORDERED**, by the Court:

1. The Court will not hear oral argument on the Motion, and thus the hearing scheduled for 10:00 am on October 19, 2022 to consider the Motion is hereby cancelled and removed from the Court's calendar.
2. The Parties request that the Court issue its ruling based on the Briefing.
3. The Parties otherwise reserve all rights, arguments, objections, and defenses they may have, and their entry into this Stipulation shall not impair or otherwise affect any such rights, arguments, objections, and defenses.

Dated: October 10, 2022
New York, New York

BAKER & HOSTETLER LLP

By: /s/ Maximillian S. Shifrin
45 Rockefeller Plaza
New York, New York 10111
Telephone: 212.589.4200
Facsimile: 212.589.4201
David J. Sheehan
Email: dsheehan@bakerlaw.com
Torello H. Calvani
Email: tcalvani@bakerlaw.com
Maximillian S. Shifrin
Email: mshifrin@bakerlaw.com

*Attorneys for Plaintiff Irving H. Picard,
Trustee for the Substantively Consolidated
SIPA Liquidation of Bernard L. Madoff
Investment Securities LLC and the Chapter 7
Estate of Bernard L. Madoff*

SHEARMAN & STERLING LLP

By: /s/ Jeffrey Resetarits
599 Lexington Avenue
New York, New York 10022
Telephone: 212.824.4000
Jeffrey Resetarits
Email: Jeffrey.Resetarits@shearman.com
Randall Martin
Email: Randall.martin@shearman.com

*Attorneys for Defendants Itaú BBA
International (Cayman) Ltd., f/k/a Itaú Europa
Luxembourg, S.A., f/k/a Banco Itaú Europa
Luxembourg S.A., and Banco Itaú Europa
International*

Dated: October 11, 2022
Poughkeepsie, New York



/s/ Cecelia G. Morris

Hon. Cecelia G. Morris
U.S. Bankruptcy Judge